

HOUSE BILL 1296

By Johnson G

AN ACT to amend Tennessee Code Annotated, Title 8,
Chapter 50, Part 8 and Title 49, Chapter 5, Part 7,
relative to family leave for public employees.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Section 49-5-710, is amended by adding the following as a new subsection:

(1) Each teacher who has been employed by an LEA for one (1) year or more within the past seven (7) years and at least one thousand two hundred fifty (1,250) hours during the past twelve (12) months is eligible for paid family leave upon experiencing one (1) or more of the following qualifying events, which are consistent with the qualifying events under the Family and Medical Leave Act (29 U.S.C. § 2601 et seq.):

(A) The birth of the teacher's son or daughter;

(B) The placement of a minor son or daughter with the teacher for adoption or foster care;

(C) The need to care for the teacher's spouse, son, daughter, or parent if the spouse, son, daughter, or parent has a serious health condition;

(D) The existence of a serious health condition that makes the teacher unable to perform the teacher's job duties;

(E) A qualifying exigency, as determined by rules promulgated by the state board of education, arising out of the fact that the spouse, son, daughter, or parent of the teacher is on covered active duty, or has been notified of an impending call or order to covered active duty, in the armed forces; or

(F) To care for a covered servicemember with a serious injury or illness if the teacher is the spouse, son, daughter, or next of kin of the servicemember.

(2) An eligible teacher is entitled to a total of twelve (12) workweeks of paid family leave during the twelve-month period immediately following the qualifying event. A teacher will receive no more than twelve (12) workweeks of paid family leave for any twelve-month period, even if more than one (1) qualifying event occurs during that period. The state board of education shall promulgate rules for certifying the appropriate amount of paid family leave that a teacher may use for each qualifying event, and this certification must be consistent with the state board of education's rules and any applicable policies and practices to certify FMLA leave. The human resources personnel for the teacher's LEA shall certify the appropriate amount of paid family leave that the employee may use for each qualifying event, consistent with such rules promulgated by the state board of education.

(3) If an eligible teacher experienced a qualifying event prior to the effective date of this act and has not used all of the FMLA leave to which the teacher was entitled as a result of the qualifying event, then the teacher is entitled to paid family leave beginning on the effective date of this act for the remainder of the FMLA leave that the teacher uses on or after the effective date of this act as a result of that qualifying event. In such circumstance, the duration of paid family leave must not exceed the paid family leave available under subdivision () (2).

(4) Paid family leave must be paid at one hundred percent (100%) of the teacher's salary.

(5) Paid family leave must be used within twelve (12) months of the qualifying event entitling the teacher to the leave.

(6) Paid family leave runs concurrently with FMLA leave and any other leave to which the teacher may be entitled as a result of the qualifying event. Paid family leave must overlap with and cannot be used in addition or consecutive to any FMLA or other leave. This subsection () is not intended to affect any other paid or unpaid leave benefits to which a teacher may be entitled.

(7) Paid family leave does not count against a teacher's annual, sick, or compensatory leave balances. However, teachers will not accrue annual, sick, or compensatory leave while using paid family leave.

(8) The state board of education shall promulgate rules to effectuate the purposes of this subsection.

SECTION 2. Tennessee Code Annotated, Title 8, Chapter 50, Part 8, is amended by adding the following as a new section:

(a) Each employee of this state who has been employed by the state for one (1) year or more within the past seven (7) years and at least one thousand two hundred fifty (1,250) hours during the past twelve (12) months is eligible for paid family leave upon experiencing one (1) or more of the following qualifying events, which are consistent with the qualifying events under the Family and Medical Leave Act (29 U.S.C. § 2601 et seq.):

(1) The birth of the employee's son or daughter;

(2) The placement of a minor son or daughter with the employee for adoption or foster care;

(3) The need to care for the employee's spouse, son, daughter, or parent if the spouse, son, daughter, or parent has a serious health condition;

(4) The existence of a serious health condition that makes the employee unable to perform the employee's job duties;

(5) A qualifying exigency, as determined by rules promulgated by the commissioner of human resources, arising out of the fact that the spouse, son, daughter, or parent of the employee is on covered active duty, or has been notified of an impending call or order to covered active duty, in the armed forces; or

(6) To care for a covered servicemember with a serious injury or illness if the employee is the spouse, son, daughter, or next of kin of the servicemember.

(b) Each employee of the state is entitled to a total of twelve (12) workweeks of paid family leave during the twelve-month period immediately following the qualifying event. An employee will receive no more than twelve (12) workweeks of paid family leave for any twelve-month period, even if more than one (1) qualifying event occurs during that period. The department of human resources shall promulgate rules for certifying the appropriate amount of paid family leave that an employee may use for each qualifying event, and this certification must be consistent with the department's rules and any applicable policies and practices to certify FMLA leave. The human resources personnel responsible for the employee's department or agency shall certify the appropriate amount of paid family leave that the employee may use for each qualifying event, consistent with such rules promulgated by the department.

(c) If an employee of the state experienced a qualifying event prior to the effective date of this act and has not used all of the FMLA leave to which the employee was entitled as a result of the qualifying event, then the employee is entitled to paid family leave beginning on the effective date of this act for the remainder of the FMLA leave that the employee uses on or after the effective date of this act as a result of that qualifying event. In such circumstance, the duration of paid family leave must not exceed the paid family leave available under subsection (b).

(d) Paid family leave must be paid at one hundred percent (100%) of the employee's salary.

(e) Paid family leave must be used within twelve (12) months of the qualifying event entitling the employee to the leave.

(f) Paid family leave runs concurrently with FMLA leave and any other leave to which the employee may be entitled as a result of the qualifying event. Paid family leave must overlap with and cannot be used in addition or consecutive to any FMLA or other leave. This section is not intended to affect any other paid or unpaid leave benefits to which an employee may be entitled.

(g) Paid family leave does not count against an employee's annual, sick, or compensatory leave balances. However, employees will not accrue annual, sick, or compensatory leave while using paid family leave.

(h) The commissioner of human resources shall promulgate rules to effectuate the purposes of this section.

(i) As used in this section, "employee of the state" includes all officers and positions of trust or employment in the service of state government in:

- (1) The executive branch;
- (2) The legislative branch;
- (3) The judicial branch; and
- (4) All boards, commissions, and agencies of state government.

SECTION 3. For purposes of promulgating rules, this act takes effect upon becoming a law, the public welfare requiring it. For all other purposes, this act takes effect July 1, 2021, the public welfare requiring it.